

Date of Hearing: April 3, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 3223 (Wilson) – As Introduced February 16, 2024

[This bill has been double referred to the Assembly Committee on Human Services and will be heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: Foster Youth Services Coordinating Program

SUMMARY: Permits a child who is the subject of a petition filed pursuant to Section 602 of the Welfare and Institutions Code (WIC) and who has been identified as being at imminent risk of removal and placement into foster care to be served by the Foster Youth Services Coordinating Program (FYSCP). Specifically, **this bill:**

- 1) Authorizes a child who is the subject of a petition filed pursuant to Section 602 of the WIC and has been identified as being at imminent risk of removal and placement into foster care pursuant to Section 8.1 of the federal Child Welfare Policy Manual, to be served through the FYSCP.

EXISTING LAW:

- 1) Establishes the FYSCP and authorizes a county office of education (COE), or a consortium of COEs, to elect to apply to the Superintendent of Public Instruction (SPI) for grant funding, to the extent funds are available, to operate an education-based FYSCP program. (Education Code (EC) 42921).
- 2) Requires each FYSCP to have at least one person identified as the foster youth educational services coordinator to facilitate the provision of educational support to any pupil in foster care residing or attending school in the county or consortium of counties.
- 3) Defines a student in foster care, for purposes of the FYSCP, to be a foster youth as defined for purposes of the Local Control Funding Formula (LCFF), or a foster youth who is detained in a county-operated juvenile detention facility.
- 4) Requires each FYSCP to develop and implement a foster youth services coordinating plan for purposes of establishing guiding principles and protocols to provide supports for foster care pupils.
- 5) Requires each foster youth services coordinating program operated pursuant to this chapter shall establish a local interagency Executive Advisory Council, as specified.
- 6) Defines “foster youth” for purposes of the LCFF to mean any of the following:
 - a) A child who is the subject of a petition filed pursuant to Section 300 of the WIC, whether or not the child has been removed from the child’s home by the juvenile court pursuant to Section 319 or 361 of the WIC.

- b) A child who is the subject of a petition filed pursuant to Section 602 of the WIC, has been removed from the child's home by the juvenile court pursuant to Section 727 of the WIC, and is in foster care as defined by subdivision (d) of Section 727.4 of the WIC.
 - c) A nonminor under the transition jurisdiction of the juvenile court, as described in Section 450 of the WIC, who satisfies all of the following criteria:
 - i) The nonminor has attained 18 years of age while under an order of foster care placement by the juvenile court, and is not more than 19 years of age on or after January 1, 2012, not more than 20 years of age on or after January 1, 2013, and not more than 21 years of age, on or after January 1, 2014, and as described in Section 10103.5 of the WIC.
 - ii) The nonminor is in foster care under the placement and care responsibility of the county welfare department, county probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1 of the WIC.
 - iii) The nonminor is participating in a transitional independent living case plan pursuant to Section 475(8) of the federal Social Security Act (42 U.S.C. Sec. 675), as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), as described in Section 11403 of the WIC.
 - d) A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law.
 - e) A child who is the subject of a voluntary placement agreement, as defined in subdivision (p) of Section 11400 of the WIC. (EC 42238.01)
- 7) Defines pupil in foster care, for purposes of educational rights of foster youth to mean any of the following:
- a) A child who has been removed from their home pursuant to Section 309 of the WIC;
 - b) A child who is the subject of a petition filed under Section 300 or 602 of the WIC, whether or not the child has been removed from their home;
 - c) A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law; and
 - d) A child who is the subject of a voluntary placement agreement. (EC 51225.1, EC 48853.5)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. The author states, "The California Department of Education (CDE) administers the Foster Youth Services Coordinating Programs (FYSCPs) through county offices

of education (COEs) to provide support services for foster youth and coordinates instruction, counseling, tutoring, mentoring, vocational training, training for independent living, and other related services. The FYSCPs are designed to increase stability and educational support.

Currently, the Education Code establishing FYSCPs includes foster youth in the child welfare system that are in placement as well as youth who remain in the home and are receiving family maintenance services. Also included as eligible youth for this program are youth with a WIC 602 petition who have been made wards of the court and ordered into foster care.

However, youth that probation works with that are subject to a WIC 602 petition at risk of placement as identified as Title IV-E candidates, which is similar in nature to child welfare youth in family maintenance, are not expressly included. The services provided via the FYSCP would be beneficial to these youth in their educational development, but it is not expressly reflected in Educational Code Section 42921.

By expressly clarifying that these youth are eligible for FYSCP services, it supports parity for this population of youth and allows for them to receive educational supports, mentoring, tutoring and other services through the county offices of education with the goal of supporting their educational needs in an effort to help provide stability in the home and mitigate risk of placement.”

Title IV-E. According to the California Department of Social Services (CDSS), the Federal definition of a Title IV-E candidate for foster care is a child at "imminent" or "serious" risk of removal, when placement in foster care is the planned arrangement.

Different definitions of foster youth for different purposes. Foster youth are defined differently for purposes of services, funding, and rights, in different sections of state and federal law. The chart below shows these definitions, as posted on the CDE website. **The Committee may wish to consider** that the inclusion of students considered Title IV-E candidates will not align with other definitions used for purposes of educational rights, funding, and data collection, among other functions.

CATEGORY OF FOSTER YOUTH	Included in Local Control Funding Formula (LCFF)	Included in Every Student Succeeds Act (ESSA)	Included in CDSS' Definition of Care and Placement	CA Foster Youth Educational Rights	Available in California Longitudinal Pupil Achievement Data (CALPADS) System via Foster Match Process
OUT-OF-HOME Child Welfare	Yes	Yes	Yes	Yes	Yes
OUT-OF-HOME Probation	Yes	Yes	Yes	Yes	Yes
IN-HOME PROBATION	Not Included	Not Included	Not Included	Yes	Not Available
FAMILY	Yes	Not Included	Not	Yes	Yes

MAINTENANCE			Included		
NON-MINOR DEPENDENTS	Yes	Yes	Yes	Yes	Yes
VOLUNTARY PLACEMENT AGREEMENTS	Yes	Yes	Yes	Yes	Yes
TRIBAL FOSTER YOUTH (AB 1962)	Yes	Only for Title IV-E tribes	N/A	Yes	In CALPADS, but not via Foster Match process
EMERGENCY REMOVALS	Not Included	Does not differentiate between emergency removal and placement	Yes	Yes	Yes (if in placement more than 7 days)

Foster Youth Services Coordinating Program. The CDE administers the FYSCPs through COEs to provide support services to foster children who suffer the traumatic effects of displacement from family and schools and multiple placements in foster care. These FYSCPs have the ability and authority to ensure that health and school records are obtained to establish appropriate placements and coordinate instruction, counseling, tutoring, mentoring, vocational training, emancipation services, training for independent living, and other related services. The goal of FYSCPs is to increase the stability of placements for foster children and youth. The services are designed to improve the children's educational performance and personal achievement, directly benefiting them as well as providing long-range cost savings to the state.

The program began in 1981 as a pilot program in four school districts, was expanded the program statewide through COEs in 1998, and was expanded again in 2006 to include additional eligible students. In 2013, the Local Control Funding Formula (LCFF) eliminated approximately three-quarters of all K-12 education categorical programs, but Foster Youth Services (FYS) is one of the few programs that has remained “outside” as a dedicated funding source.

FYSCP report and recommendations. Current law requires the CDE, every other year, to report on the activities of FYSCP and student learning outcomes of foster youth. The most recent report, submitted in 2022, covers the 2019–20 and 2020–21 school years.

According to the CDE, the FYSCPs have demonstrated substantial progress in building collaborative relationships among various agencies and systems that work with foster youth, focusing support on data sharing, transportation procedures to support school stability, learning support, and college and career transitions. The interagency collaborative relationships developed by the FYSCPs have resulted in the expanded capacity of providing comprehensive services to foster youth and the improvement in their academic outcomes. These data show that the FYSCP helped to:

- Increase the school stability rate. There was an increase of 6% in foster youth stability rates between the 2019–20 and 2020–21 school years. This large increase in the rate is a significant step toward closing the opportunity gap between foster and non-foster youth;
- Decrease the statewide juvenile detention rate for foster youth by 2.4% from 2019–20 to 2020–21, representing more than 1,100 fewer foster youth receiving instruction in a juvenile detention facility;
- Increase the high school graduation rate. The two-year increase in the foster youth graduation rate of 2.6% is much higher than the non-foster youth 0.5% increase from 2018 to 2020;
- Increase foster youth FAFSA/CADAA completion rates from 2019–20 to 2020–21 by 4.4%;
- Coordinate services and information with LEAs and other partners to obtain necessary records to determine appropriate school placements and coordinate instruction;
- Increase collaboration and build capacity among partner agencies and systems in order to increase access to meaningful educational support for foster youth;
- Provide guidance and support to LEAs on the development of integrated policy and practice for LCAP to engage in effective program planning for foster youth under LCFF;
- Provide direct service and referrals for educational support services, vocational training, and training for independent living; and
- Develop formal agreements to formalize collaboration among county agencies to optimize resources and eliminate redundant services.

To improve the program, the CDE recommends:

- Amending existing law for the FYSCP to remove the annual LEA waiver requirements to provide direct services to foster youth;
- Securing funding to support district foster youth educational liaison positions, and
- Continuation of the funding of the FYSCP to ensure the support infrastructure remains in place.

Foster youth outcomes often lag behind those of other students. According to the CDE’s 2022 California School Dashboard, there are 31,060 foster youth enrolled in California public schools. The instability foster youth’s home and school placements often negatively impacts students’ learning achievement. In California, foster youth perform lower on all educational outcomes than any other student group in the state including homeless youth, English learners (ELs), and socioeconomically disadvantaged students. Foster youth data on the 2022 California School Dashboard shows:

- 42.1% of foster students were chronically absent versus 30% of all students;
- 12.4% of foster students were suspended from school one or more times versus 3.1% of all students;
- Foster students were 85.6 points below the state standard on the Smarter Balanced Assessment in English Language Arts (versus all students at 12.2 points below standard);
- Foster students were 126.3 points below the state standard on the Smarter Balanced Assessment in mathematics (versus 51.7 points below for all students); and
- 64.1% of foster pupils graduated from high school versus 87.4% of all students.

Research further confirms the challenges and outcomes facing foster youth:

- 66% of students in foster care remained in the same school through the 2018-19 year, while 95% of non-foster students did so;
- 71% of students in foster care changed school during the school year in at least one of our years from 2015-16 to 2018-19, compared to 15% of all other students;
- 24% of students in foster care met or exceeded standards in English Language Arts in 2018-19, compared to 51% of other students; and
- 15% of students in foster care met or exceeded standards in mathematics in 2018-19, compared to 40% of other students. (Burns, 2022)

In 2018–19, around 18% of California’s K–12 youth in foster care were African American, compared to just 5% African American students in the overall student population. The majority of students in foster care were Latino/a (55%), which matches the percentage of Latino/a students in the statewide student population. California students in foster care are also more likely than the general population to identify as LGBTQ. A 2019 study using a statewide sample of California students ages 10–18 found that 30% of students in foster care identified as LGBTQ, compared to an estimated 11% among similar-age nonfoster students. Students in foster care are also disproportionately likely to be eligible for special education services. In 2018–19, 31% of students in foster care were eligible for special education, compared to just 13% of their non-foster peers. Students in foster care also include “dual system” students—those involved with both the child welfare and the juvenile justice systems. (Burns, 2022)

Districts with students in foster care receive LCFF funding to support their learning needs. In particular, districts receive increased funding based on the unduplicated percentage of enrolled students from low-income families, English learners (ELs), and students in foster care. However, students in foster care do not actually generate additional funding because they are already considered eligible for free meals. Researchers suggest that their inclusion in LCFF unduplicated counts brings important visibility to this student group and means that the needs of students in foster care should be considered in Local Control Accountability Plans (LCAPs), in which districts specify learning goals for included student groups and create plans to achieve

those goals. COEs must also include measures of progress for students in foster care in the Dashboard, the state's accountability system. (Burns, 2022)

Arguments in support. The Chief Probation Officers of California writes, “Currently, the Education Code establishing FYSCPs includes foster youth in the child welfare system that are in placement as well as youth who remain in the home and are receiving family maintenance services. Also included as eligible youth for this program are youth with a WIC 602 petition who have been made wards of the court and ordered into foster care.

However, youth that probation works with that are subject to a WIC 602 petition who are at risk of removal and placement into foster care and identified as Title IV-E candidates are similar in nature to child welfare youth in family maintenance, but are not expressly included. The services provided via the FYSCP would be beneficial to these youth in their educational development, but it is not expressly reflected in Educational Code Section 42921.

AB 3223 would clarify the applicability of the Foster Youth Services Coordinating Program in also serving youth with a WIC 602 petition who have been identified as a Title IV-E candidate and at risk of placement into foster care. By expressly clarifying that these youth are eligible for FYSCP services, it allows for them to receive educational supports, mentoring, tutoring and other services through the county offices of education with the goal of supporting their educational needs in an effort to help provide stability in the home and mitigate risk of placement.”

Related legislation. AB 2137 (Quirk-Silva) of the 2023-24 Session would make several changes to existing services and plans to ensure the coordination of school-related services for foster youth and pupils experiencing homelessness, including authorizing the FYSCP to provide tutoring, mentoring, and counseling to the pupil, if a foster youth educational services coordinator determines that it is in the best interest of a foster youth to do so.

AB 1055 (Ramos), Chapter 287, Statutes of 2021, revises the definition of students in foster care for purposes of the LCFF and for purposes of specified educational rights of students in foster care, to include those students subject to a voluntary placement agreement and by eliminating the requirement that a dependent child of the court of an Indian tribe also meet the definition of a dependent child of a county court.

AB 1962 (Wood), Chapter 748, Statutes of 2018, amended the definition of foster youth for LCFF purposes to include a dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law, provided that the child would also meet one of the descriptions in Section 300 of the WIC, describing when a child may be adjudged a dependent child of the juvenile court.

AB 854 (Weber) Chapter 781, Statutes of 2015, restructured the existing FYS program by shifting the primary function from direct services to coordination, and allows program funds to be used to support all students in foster care, irrespective of placement.

AB 379 (Gordon) Chapter 772, Statutes of 2015, makes complaints regarding the educational rights of students in foster care subject to the Uniform Complaint Procedures process.

AB 224 (Jones-Sawyer) Chapter 554, Statutes of 2015, requires that a notice of educational rights of foster youth be created and disseminated.

AB 1808 (Steinberg, Chapter 75, Statutes of 2006) Expanded the FYS program to serve youth in foster family homes, foster family agencies, and juvenile detention facilities.

AB 2489 (Leno) of the 2005-06 Session would have expanded the FYS program and required that each program identify a foster youth educational services advocate. This bill was held in the Assembly Appropriations Committee.

AB 490 (Steinberg) Chapter 862, Statutes of 2003, expands and stipulates authority for school records of foster, homeless, and incarcerated youth.

SB 1677 (Alpert) Chapter 785, Statutes of 2002, strengthened and clarified requirements regarding surrogate parents and responsible adults who make educational decisions for children.

AB 2453 (Runner), Chapter 67, Statutes of 2000, gave foster family agencies access to records of grades and transcripts and individualized education programs maintained by districts or private schools.

SB 933 (Thompson), Chapter 311, Statutes of 1998, expands the FYS program statewide through COEs, with funding targeted to students residing in licensed children's institutions.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Office of Education
Chief Probation Officers' of California

Opposition

None on file

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